

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Alfred Gilchrist,) Civil Action No.: 4:13-3512-MGL
)
Plaintiff,)
)
vs.) **ORDER AND OPINION**
)
Willie B. Edwardson, Detective of Marion)
County Sheriff Dept.; James Lee; Neal Ross,)
Marion County Sheriffs, and Mark K.)
Richardson, Sheriff of Marion County,)
)
Defendants.)
)

Plaintiff Alfred Gilchrist (“Plaintiff”), a state prisoner incarcerated at the Ridgeland Correctional Institution in Ridgeland, South Carolina, proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983. This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South. The Magistrate Judge prepared a Report and Recommendation and opined that the complaint was subject to summary dismissal and should be dismissed without prejudice and without service of process for failure to state a claim upon which relief can be granted. (ECF No. 12).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objections are made.

On January 9, 2014, Plaintiff moved pursuant to Rule 15 of the Federal Rules of Civil Procedure to Amend his Complaint. (ECF No. 17). Plaintiff also moved for an extension of time to bring his complaint into proper form. (ECF No. 16). Upon consideration Plaintiff's motions (ECF Nos. 16 and 17) are **GRANTED**. Accordingly, the Court respectfully declines to follow the Magistrate Judge's Report and Recommendation.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend his Complaint is **GRANTED**. Plaintiff shall file his amended complaint on or before February 21, 2014.

IT IS FURTHER ORDERED that the clerk shall return this matter to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
January 10, 2014